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ABSTRACT

This paper is the third in a series of yearly efforts to identify the top public-policy issues facing higher education. Each of the 10 issues is discussed in terms of likely developments in 1996 and the near future, the issue's various aspects, and sources of further information on the issue. Issues identified and discussed are: (1) cost containment and productivity (Congressional hearings on college costs and tuition increases are likely in 1996); (2) affirmative action (how this controversial issue is resolved could have a major impact on hiring, promotion, and admission policies); (3) student financial aid (focus will be on funding levels of federal and state aid); (4) governance and privatization (the role of governing boards and privatization is a major issue in several states); (5) federal tax debate (proposals concerning a flat-tax, consumption-tax, and discontinuation of private institutions' tax exemptions will impact institutions); (6) economic development (more debate at the state level on higher education's role in stimulating economic development is likely); (7) federal research issues (Congress will debate federal research funding and indirect-cost recovery policies); (8) distance learning and technology (the federal telecommunications bill could have important effects in this area); (9) campus climate (deterioration in campus climate could have public policy implications; and (10) regulation and accountability (regulatory relief will continue on the federal and state levels). (DB)

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Association of Governing Boards
of Universities and Colleges

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Introduction

This paper is the third in the AGB series on the top public-policy issues facing higher education. We have been gratified by the reader response to our first two efforts and trust the publication continues to merit your interest, confidence, and use again this year.

In several respects, this year's effort has paralleled those of the past two years. Once again we gathered a group of individuals involved in various ways in the nexus between higher education and public policy to solicit their views on what will be the most pressing public-policy issues in 1996. The group responded to our charge with a provocative list of issues. In meetings with other groups—including the AGB Council of Presidents and the AGB Council of Board Chairs—we then winnowed down the list to the ten issues that appear here. And once again, although the issues are numbered to provide a context for discussion, *they are not listed in any order of relative priority.*

But this year's process and result also has proved different and more difficult in at least one important respect: The ongoing federal budget battle and related partial shutdowns in federal operations has led to a delay in publication. So many issues were held in abeyance as the budget negotiations dragged on through late 1995 and early 1996 that we decided it would be better to wait until the impasse was resolved. Once it became clear that the impasse would not be totally resolved perhaps until the fall elections, we forged ahead, making adjustments in various issues to reflect the uncertainty that continues to surround so many of them.

A number of crosscutting themes kept cropping up during discussions leading up to this year's publication. While the themes themselves did not qualify as top "issues" in our opinion, we were struck by the consistency with which they were raised in developing the various issues. The themes include the following:

- Debate over the cost of higher education could intensify at both the federal and state levels to the point that it could replace school reform as a top priority of many policy makers, if not in 1996 then certainly in 1997.

- It is reasonable to expect a shift in focus from federal to state issues in 1996. This shift could occur despite the fact that higher education is likely to be a high-profile issue in the 1996 presidential campaign.

- The public's perception of governmental dysfunction at the state and federal levels could continue and possibly worsen in 1996. This perception derives both from the prolonged disagreement over budget priorities and the resulting shutdown of the federal government and extends to more specific concerns about the ability of the Department of Education to administer the federal programs under its jurisdiction.

- At the federal level, we expect to see a shift from congressional activity to the presidential campaign, where higher education could play a central role. There also is likely to be less emphasis this year on federal legislation that affects higher education, although there will be congressional hearings—on college costs and possibly on affirmative action—and greater emphasis on agenda-building for the future, with the reauthorization of the Higher Education Act due to begin in 1997.

It also struck us during our preparations for this paper that 1996 probably will be more of a transition year for higher education in the realm of public policy than one of action. While higher education may be a key issue in the presidential campaign, congressional legislative activity will virtually cease. The 1996 elections will be pivotal: The Senate has a record number of retirees, and the House either will see Republicans solidify the remarkable gains they made in 1994 or lose

ground to Democrats in a changed political climate. Consequently, the federal public-policy focus is likely to be on preparatory work for the reauthorization of the Higher Education Act, on the federal role in dealing with college costs, and other issues.

Transition may also be an appropriate word for public policy in higher education at the state level. Many key governorships and a number of state legislatures are up for grabs in 1996. All this leads to a certain degree of humility in suggesting what will be the key public-policy issues for higher education in 1996. Our batting average in predicting what will occur the past two years has been pretty good. But it's a new season—some would say a new ballgame—and we, like you, await the outcome.

Suggestions and Acknowledgments

Several of these issues surely justify discussion at board meetings or retreats. Boards also might want to consider (1) whether they can reliably assess the effects of the public-policy issues cited here on their own campuses and (2) whether they have adequate information to explain the potential impact of these issues to lawmakers.

Boards and chief executives might find it helpful to convert the list of ten issues on page 5 to a transparency for use with an overhead projector. AGB members have permission to photocopy the entire paper, or additional copies may be ordered for a nominal charge by calling 202/296-8400.

Special acknowledgments are due to AGB Director **Alan G. Hassenfeld**, trustee of Brown University and Bryant College, and the Hassenfeld Family Foundation, for once again contributing to the cost of developing and distributing this paper to AGB's 30,000 members. AGB also is grateful to **TIAA-CREF** for its contribution to the research necessary to develop it.

AGB Senior Fellow **Arthur M. Hauptman** directed this project with his usual competence and objectivity. He was ably assisted by **Marlies Dunson**, who helped prepare several issues and was involved in the general coordination of the paper. Vice President for Publications **Daniel J. Levin** and Director of Public Sector Programs **Richard Novak** contributed to its development, as did other individuals from the group listed below. This group met in Washington, D.C., in December 1995 to consider which issues to include in this paper. Although the group bears no responsibility for the final version of this document, AGB acknowledges its valuable insights and advice.

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March 1996

Ten Public Policy Issues For Higher Education In 1996

1. Cost Containment and Productivity

Congressional hearings on college costs and tuition increases are likely in 1996, but legislation is at least a year away. Continuing budgetary pressures could lead to tuition caps and productivity initiatives in public institutions in several states.

2. Affirmative Action

Affirmative action will continue to be a major political battleground at the federal and state level. How it is resolved could have a major impact on the hiring, promotion, and admission policies of many colleges and universities.

3. Student Financial Aid

The debate on student financial-aid policy will focus on whether federal and state aid programs are adequately funded and whether direct loans and income-contingent repayment programs should continue.

4. Governance and Privatization

Several states will debate the role of governing boards and systems and whether some public institutions should privatize.

5. Federal Tax Debate

Adoption of flat-tax and consumption-tax proposals could have profound implications for higher education. The tax exemption for private institutions is still at issue in some cities and states.

6. Economic Development

Several states will discuss higher education's role in stimulating economic development. The federal debate over workforce preparation may shift to the states, if block grants for job training take hold.

7. Federal Research Issues

Congress will debate the level and composition of federal research funding and the reform of indirect-cost recovery policies.

8. Distance Learning and Technology

Many states and institutions are intensifying their examination of distance learning as a way to cut costs and improve productivity. The federal telecommunications bill could have important effects on the use of technology on campus.

9. Campus Climate

The deterioration in the campus climate in terms of race and gender relations, the incidence of crime, and the growing shrillness of debate could have public-policy implications in the courts and through legislation.

10. Regulation and Accountability

Regulatory relief will continue to be prominent as the federal government and the states seek the appropriate balance between accountability and regulatory reform.

1. Cost Containment and Productivity

Issue at a Glance

Congressional hearings on college costs and tuition increases are likely in 1996, but legislation is at least a year away. Continuing budgetary pressures could lead to tuition caps and productivity initiatives in public institutions in several states.

• Several congressional committees will hold hearings that will focus public attention on the continued growth of tuition.

• In an effort to control costs, several states may place caps on tuition and intensify their examination of faculty work loads and productivity.

• The concept of "learning productivity" will catch on in a number of states, although initial efforts have focused on punitive measures.

Concerns about the rapid growth of college tuition and costs are likely to intensify this year on both sides of the political aisle. The need for colleges to control their costs was a prominent part of a speech President Clinton gave to the 1996 annual meeting of the National Association of Independent Colleges and Universities (NAICU). And the Republican Congress seems bent on making the continued growth of college costs a prime topic of inquiry this year. These concerns about costs extend to the states as well, as tuition in the public sector has risen more rapidly in the 1990s than in the private sector.

• Several congressional committees will hold hearings that will focus public attention on the continued growth of tuition.

More than 30 members of Congress have asked the General Accounting Office to study why college tuition continues to climb faster than inflation. A number of newspapers, including the *Philadelphia Inquirer* and *Washington Post,* plan investigative series on the topic of college costs. Many lawmakers seem to think there is more political advantage to be gained by challenging the growth of tuition than in trying to cut federal student-aid programs.

The continued growth in college costs also could emerge as an issue in the 1996 presidential campaign. That President Clinton raised this issue in his speech to NAICU suggests it may become part of his campaign effort to appeal to middle-class voters. It seems unlikely that any of his challengers will opt to avoid this politically charged issue.

• In an effort to control costs, several states may place caps on tuition and intensify their examination of faculty work loads and productivity.

In the 1990s, the fastest growth in college tuition has occurred in the public sector, as cutbacks in state funding have led many public institutions to increase tuition to make up for the state shortfall. As a result, the proportion of college costs borne by taxpayers has declined, and the share paid by students and families has increased, although taxpayers still pay the largest portion of the bill through the general support of institutions provided by state governments.

The rapid rise in tuition has concerned many state policy makers, who believe the increases have caused enrollment drops in many public institutions (although state-imposed enrollment

caps and restrictions on course offerings at many institutions as a result of limited state funding are probably an equal obstacle to continued access to public higher education). In any case, several states have reacted to these trends by proposing to limit the future growth of public college tuition. In some cases, these proposals are tied to rate of inflation; in others an outright freeze has been proposed. Whether such proposals become reality will depend on such factors as budget negotiations between legislators and institutional officials, 1996 state election campaigns, and the extent of public concern over rising prices. Ultimately, the decision will come down to a tradeoff between price and quality, with advocates of higher tuition arguing that continued increases are the only way to ensure quality when state funding is declining.

Concerns about the rapid growth in college costs ultimately derive from concerns about the lack of productivity in higher education. Members of Congress and executive branch officials are likely to continue to recognize the inappropriateness of federal intervention in matters of institutional productivity. But state policy makers may intensify the search for ways to achieve greater productivity, at least at the majority of public institutions where state funds still constitute the largest source of institutional revenues. As predicted last year, an increased number of states either legislated (Ohio, Washington) or persuaded boards and institutions to study the productivity of college faculty. By 1995, 24 of the 50 states required annual reports or a first-time report of faculty work loads. Look for an increasing number of states to study their collected data on faculty work loads.

• The concept of "learning productivity" will catch on in additional states, although initial state efforts have focused on punitive measures.

D. Bruce Johnstone, former chancellor of the SUNY system, several years ago started a national discussion on the need to improve what he called "learning productivity"—a notion of productivity aimed at the related problems that graduation rates over time have dropped at many institutions while time-to-degree has increased in many fields of study. Johnstone and like-minded educators focused more on how students learn than on how much faculty teach. This discussion was slow starting, but it recently has gained more adherents as available statistics suggest a worsening in a number of measures of student performance and persistence.

This growing interest in learning productivity is being translated into actions—unfortunately, too often in the form of punitive measures that penalize students who take a longer than average time to complete their course of study. States experiencing large enrollment growth are instituting measures to move students through their colleges and universities faster. One type of measure would force students who exceed the required number of hours for a degree to pay the full cost of education for any remaining credits. Another would place limits on the number of hours for a degree. Such proposals have been discussed or legislated in Florida, California, and Arizona. Other aspects of learning productivity—distance education, three-year degrees, year-round enrollment, advanced placement—may begin to catch on in the states.

For more information on this issue:

Focus on the Budget: Rethinking Current Practice, State Higher Education Executive Officers, May 1994.

"The Politics of Intervention: External Regulation of Academic Activities and Workloads in Public Higher Education," in *Academe*, January/February 1996.

Learning Productivity: A New Imperative for American Higher Education, by D. Bruce Johnstone in *Studies in Public Higher Education*, April 1993 (State University of New York).

2. Affirmative Action

Issue at a Glance

Affirmative action will continue to be a major political battleground at the federal and state level. How it is resolved could have a major impact on the hiring, promotion, and admission policies of many colleges and universities.

• Colleges and universities will need to evaluate their hiring, admissions, and financial-aid policies in the wake of the *Adarand* and *Hopwood* decisions.

• The University of California will be monitored closely as it prepares to eliminate racial, ethnic, and gender preferences in favor of alternative strategies for hiring and admissions.

• Higher education institutions will find it more difficult to maintain a commitment to access and diversity in the prevailing political climate.

Public officials have not paid much attention to affirmative action since 1978, when the Supreme Court decided the *Bakke* case. In response to renewed interest in affirmative action, President Clinton in March 1995 ordered a review of federal affirmative-action programs. The review came amid growing controversy over the effectiveness and fairness of affirmative action and the Supreme Court decision in *Adarand Constructors, Inc. v. Peña*. The *Adarand* decision represents just one of a number of developments this past year that have thrust affirmative action back into the national limelight. The recent Fifth U.S. Circuit Court of Appeals case, *Hopwood v. Texas*, which overturned the University of Texas Law School's preferential admissions policy, could force the Supreme Court to reexamine whether the only state interest in affirmative action is to remedy past wrongs or to promote educational diversity by allowing racial preferences in admissions.

• Colleges and universities will need to evaluate their hiring, admissions, and financial-aid policies in the wake of the *Adarand* and *Hopwood* decisions.

The *Adarand* case challenged the constitutionality of a Department of Transportation program that compensates persons who receive prime government contracts if they have subcontractors certified as "socially and economically disadvantaged." In its decision, the Supreme Court extended the ruling in the state and local case, *Richmond v. J.A. Croson Co.* (1989), to include federal programs as well. The court held that "strict scrutiny" is now the standard of constitutional review. Accordingly, the governmental interest underlying affirmative action must be "compelling," and measures must be "narrowly tailored" to serve that interest. Colleges and universities will need to look to *Croson* as a guide for applying strict scrutiny. But even then, determining necessary and appropriate measures of reform will be difficult.

Although *Adarand* did not overrule *Bakke*, the Supreme Court left many questions unanswered, including the constitutionality of programs aimed at promoting such nonremedial goals as diversity. Also, while *Adarand* makes clear that remedying past discrimination may justify race-based measures, the court has not resolved whether a governmental institution must have sufficient evidence of discrimination before it takes race-based remedial action. Most public institutions take racial diversity into account in admissions, so resolution of *Hopwood* will have major ramifications.

• The University of California will be monitored closely as it prepares to eliminate racial, ethnic, and gender preferences in favor of alternative strategies for hiring and admissions.

Governor Pete Wilson of California used his brief presidential campaign to focus on affirmative action, and in his role as chair of the Board of Regents of the University of California he urged the board to eliminate racial, ethnic, and gender preferences in its hiring and admissions policies. The highly publicized vote by the regents in July 1995 to do this angered many students, faculty, and administrators who fear the "color blind" policies will lead to a sharp decline in minority student enrollment. According to the *Chronicle of Higher Education*, studies have shown that if the Berkeley campus were to admit students based solely on grades and test scores, black enrollment would drop to less than 2 percent of the student population.

The University of California system reportedly is planning to admit 50 percent of its applicants this coming year strictly on academic achievement and evaluate up to half of the rest who meet the minimum academic requirements based on "special circumstances." These circumstances include social and economic disadvantage and "difficult family situations." The campuses' admissions officers will have to make the difficult judgment calls.

In another effort to maintain diversity, the University of California system has instructed its campuses to make efforts to increase "the eligibility rate of groups that are underrepresented in the university's pool of applicants." According to the *Affirmative Action Review Report to the President*, the proposals to expand the applicant pool fall in line with interpretations of *Adarand*. Targeting minorities through outreach and recruitment campaigns involves race-conscious action, but race and ethnicity are not to be used in actual admissions decisions.

• Higher education institutions will find it more difficult to maintain a commitment to access and diversity in the prevailing political climate.

A November referendum in California and the emergence of affirmative action as a key issue in the 1996 elections may influence future policy decisions at the state and federal levels. The outcome of the presidential election could produce an ideological shift in the Supreme Court through new appointments, potentially further undercutting affirmative action.

While no major change in or extension of federal policy is likely before the elections, some political analysts have deemed affirmative action a wedge issue. Women's groups are discussing strategies for defending affirmative action, and the higher education community will have to work hard to uphold Justice Powell's controlling opinion in the 1978 *Bakke* case: "Increasing the racial and ethnic diversity of the student body at a university constitutes a compelling interest, because it enriches the academic experience on campus." The challenge will be to muster comprehensive data to meet *Adarand*'s strict-scrutiny rule and be convincing enough to persuade political leaders and the public. "We will need to explain why it is essential for institutions to retain their autonomy to determine the qualifications they seek in the students they admit and the faculty members they hire and why the institutions, not government, are the best judges of such qualifications," wrote Martin Michaelson in the *Chronicle of Higher Education*.

For more information on this issue:

Affirmative Action Review Report to the President, by George Stephanopoulos and Christopher Edley, Jr., July 19, 1995.

"Building a Comprehensive Defense of Affirmative-Action Programs," by Martin Michaelson in the *Chronicle of Higher Education*, July 28, 1995.

"The Spoils of Victimhood," by Michael Kinsley in the *New Yorker*, March 27, 1995.

3. Student Financial Aid

Issue at a Glance

The debate on student financial-aid policy will focus on whether federal and state aid programs are adequately funded and whether direct loans and income-contingent repayment programs should continue.

• Lack of resolution of the federal balanced-budget plan adds to the uncertainty about the funding of many federal student-aid programs, both for the coming year and into the future.

• Student-loan reform—the status of direct loans and income-contingent repayment—could find its way into the presidential campaign debate.

• Several states may cut back or restrict the growth in their student-aid programs in the face of continuing budget difficulties, while others will increase funding to offset the effects of higher tuition.

Student aid has become an increasingly visible aspect of public policy because it accounts for a growing share of all public funds devoted to higher education. This greater visibility means student aid could move toward center stage in the national political battles. Last year, when Republicans proposed to eliminate government subsidies for in-school interest, higher education associations created a prominent and vocal Alliance to Save Student Aid. This lobbying activity succeeded first in having the proposal scaled back and eventually dropped from the balanced-budget package. But the high profile of the battle and the substantial amount of funds expended on it at the federal and state levels means student aid will continue to be a target in the coming years.

• Lack of resolution of the federal balanced-budget plan adds to the uncertainty about the funding of many federal student-aid programs, both for the coming year and into the future.

Most federal student-aid programs, with the exception of student loans, are part of the discretionary portion of the federal budget and subject to annual appropriations. These discretionary programs generally took a back seat in the federal budget debate this past year, as the gridlock centered chiefly around taxes and the so-called entitlement programs that do not require annual appropriations to operate. But the budget debate has affected a number of federal discretionary programs, including many for higher education, as funding was held in limbo until the larger budget debate was resolved.

Many federal education programs, including most student-aid programs, are forward funded, a feature that distinguishes them from most of the other discretionary programs. Forward funding means that the appropriations made in one year are used for spending in the subsequent year. This allows schools and colleges to plan more systematically for the next academic year. Thus, the 1995 federal budget gridlock did not have much impact on student-aid operations in academic year 1995-96, because funding for student aid came from appropriations provided in the previous year.

But the uncertainty of the 1995 budget debate has wreaked havoc on planning for the 1996-97 academic year as the Department of Education has been unsure about how much money will be available, since its appropriation is still unresolved. College officials, in turn, do not know how much aid they can award for the 1996-97 academic year. These are decisions they typically make in the late winter and early spring of the year.

The inability of Congress and the president to come to a budget agreement in 1995 also means that student aid and other federal discretionary programs are likely to be subject to additional scrutiny and cutbacks in 1996 as the Congress searches for alternative means of reducing the deficit. Some Republican leaders in Congress have made clear their intention to move to a strategy in 1996 of simply not funding the programs they do not support. At least some of the federal student-aid programs could fall into this category.

• Student-loan reform—the status of direct loans and income-contingent repayment—could find its way into the presidential campaign debate.

Funding student loans directly from the federal government and allowing student borrowers to repay their loans on the basis of their income once they are graduated were two prominent campaign promises actually enacted into law in the first year of the Clinton administration. Not surprisingly, these two provisions—particularly direct loans—have been subject to harsh criticism by many Republicans in Congress who argue that the federal government is not capable of running such a large program and that these responsibilities are better left to the private sector. To buttress their argument, the Republicans required the Congressional Budget Office to change its accounting system for student loans (while not instituting similar changes for other federal credit programs). The result bolstered those who argue that direct loans cost more money than the federally guaranteed approach through the private sector.

All this ensures that student loans will play a prominent role in the 1996 presidential campaign. President Clinton will argue that the enactment and implementation of direct loans and income-contingent repayment demonstrates his administration's willingness to take on special interests, push for reforms that benefit students, and save the government money. Republicans will counter that direct loans and income-contingent repayment are prime examples of this administration's inability to resist expanding the scope and cost of government programs and its inability to run them. A highly publicized backlog of more than one million financial-aid applications in the winter of 1996 will add fuel to the Republicans' argument.

• Several states may cut back or restrict the growth in their student-aid programs in the face of continuing budget difficulties, while others will increase funding to offset the effects of higher tuition.

Although student aid represents a relatively small share of total state spending for higher education, it nonetheless is an important policy tool for providing access to postsecondary educational opportunity. Student aid is the principal means by which states can cushion the blow of rising tuition at public institutions as well as providing some relief for state residents who attend higher priced private institutions. Faced with lower funding and increasing tuition at public institutions, states have varied their responses. New York has cut funds for student aid as part of overall belt tightening. But at least a dozen states are increasing funding for student aid to help relieve the burden of higher tuition and fees. This mixed pattern is likely to continue in 1996.

For more information on this issue:

"The Republican Revolution: What it Means for Student Aid," by Terry Hartle in *Educational Record*, Winter 1996.

"Is the Student Loan Burden Really Too Heavy?" by Sandy Baum in *Educational Record*, Winter 1996.

"A Tuition Puzzle for State Boards," by Jane Wellman in *Trusteeship*, March/April 1996.

4. Governance And Privatization

Issue at a Glance

Several states will debate the role of governing boards and systems and whether some public institutions should privatize.

• The review of public university governance structures will intensify in 1996 because of continued fiscal uncertainties, general efforts to downsize government, and growing dissatisfaction with higher education.

• The constitutional independence of public higher education will be questioned in a number of states.

• Many public institutions will seek—although few states will grant—greater "privatization" through increased fiscal and management autonomy and possibly the establishment of "charter colleges."

As higher education loses ground to health care, welfare, and elementary and secondary education in the quest for public funds, debate grows about whether existing higher education governance structures remain the most appropriate mechanisms for dealing with conditions of limited financial resources. These governance debates variously address the value of centralized systems versus greater institutional autonomy, the effectiveness of public boards of trustees, and whether some public institutions should be "privatized" through greater fiscal and management autonomy.

• The review of public university governance structures will intensify in 1996 because of continued fiscal uncertainty, general efforts to downsize government, and growing dissatisfaction with higher education.

Many states changed their higher education structures in 1995. Following New Jersey's lead in 1994, Minnesota merged three college systems into one large multicampus system, while radically downsizing its state office for higher education coordination. South Carolina restructured its state coordinating board. Illinois abolished two university systems, replacing them with independent boards for the seven affected campuses, and replaced the statewide elected board of trustees for the University of Illinois with a gubernatorially appointed board.

As the examination of state governance structures continues, some states will seek to merge and consolidate institutions and governing boards and to centralize decision-making authority, while others may attempt to place more authority at the institutional level. Efforts to merge and consolidate vocational-technical institutions, community colleges, or two-year branch campuses of universities (an action taken by a number of states in 1994 and 1995) may continue into 1996.

• The constitutional independence of public higher education will be questioned in a number of states.

The place and independence of higher education in some state constitutions will be challenged in 1996. Two states, Oklahoma and Montana, will go so far as to decide the fate of citizen governance of its public colleges and universities, potentially opting for greater direct government control of higher education. In Oklahoma, the legislature will decide whether to accept some of the recommendations of a special gubernatorial commission that examined the reorganization of state government. The commission called for a realignment of all public colleges and universities

into two institutions that would be under the overall authority of the state secretary of education. Existing university system boards for governance and state coordination would be eliminated.

Montana voters will decide in November whether to ratify a legislatively passed amendment to the state constitution to abolish the seven-member State Board of Regents, the governing board for Montana's senior institutions and vocational-technical colleges. The regents would be replaced by an education commission and a director of education appointed by the governor. These two proposals present changes not only to citizen trusteeship, but to the independence of institutions having similar status in other states.

The composition and independence of constitutional governing boards has been challenged publicly by elected officials in California, Colorado, North Dakota, and Michigan, and changed by statute in Illinois (pending a court challenge by the university's board of trustees). These challenges may continue in 1996.

• Many institutions will seek—although few states will grant—increased fiscal and management autonomy through the "privatization" of public institutions and the possible establishment of "charter colleges."

Another aspect of governance relates to the fiscal flexibility and management autonomy of public institutions. Long protected by some public college officials and long sought by others, such financial and management prerogatives as the ability to bypass state purchasing regulations, carry over budgets between fiscal years, retain tuition revenue at the institutional level, and manage one's own personnel system have been the subject of ongoing battle in many states. Declining state revenues have motivated institutions and states to agree on redefined relationships, but rethinking institutional accountability also plays a role.

The degree of freedom governors and state legislatures have granted from state executive (cabinet-level) agencies obviously has varied. Some state and education leaders will trumpet the privatization of their public institutions, while others will work quietly but persistently toward greater fiscal and management autonomy. The Oregon State System of Higher Education made great strides last year in attaining legislation granting greater fiscal flexibility. Its success has not gone unnoticed. The State University of New York (and possibly the City University of New York), with long-festering complaints, again will seek regulatory relief from the state's bureaucracies.

In some states, prospects for a further decline in state funding of higher education will encourage educators and policy makers to create charter colleges, similar to St. Mary's College, a public liberal arts college in Maryland. Arizona will debate this for possible new public colleges. The notion behind such schools is to provide greater autonomy, lessened accountability requirements, and greater expectations for private giving in return for predictable but reduced funding over time from state sources. One should not look for major systemic changes in this area, however. Rather, decisions will be made on an institution-by-institution basis, based as much on individual institutional history and mission as general state finances and accountability.

For more information on this issue:

"A State of Change," by Darryl G. Greer and Paul Shelly in Trusteeship, July/August 1995.

"Metamorphosis of a Public College," by Edward T. Lewis in *Trusteeship*, September/October 1994.

"Is This the Future of Lay Governance?" by James M. Kaze in *Trusteeship*, January/February 1996.

Charting Higher Education Accountability, Education Commission of the States, June 1994.

5. Federal Tax Debate

Issue at a Glance

Adoption of flat-tax and consumption-tax proposals could have profound implications for higher education. The tax exemption for private institutions is still at issue in some cities and states.

• The unresolved balanced-budget legislation that gridlocked the government in late 1995 includes a number of tax provisions affecting higher education.

• The upcoming federal debate over flat-tax and consumption-tax proposals may have profound implications for higher education.

• The tax-exempt status of colleges and universities will continue to be at issue in the courts and in the Congress.

The income-tax deduction for charitable giving has been critical in assuring the financial viability of America's private colleges and universities and increasingly for public institutions seeking private funds. So has the tax-exempt status of most income generated by nonprofit education institutions. More recently, other federal tax issues—including the deductibility of the fair market value of charitable gifts of appreciated property, employer-provided educational assistance, the treatment of graduate research and teaching fellowships, the authority of private colleges to issue tax-exempt bonds, and tax credits to industry for basic research performed by universities—have become more important matters both to colleges and to policy makers. All of these policies could be subject to revision during the upcoming debates over the federal tax code.

• The unresolved balanced-budget legislation that gridlocked the government in late 1995 includes a number of tax provisions affecting higher education.

Several tax issues of interest to higher education are included in tax legislation stalled in budget deliberations. For example, President Clinton has proposed a deduction of up to $10,000 per family for college and university tuition expenses. The omnibus budget legislation passed by Congress, but vetoed by the president, would (1) permit an "above the line" deduction of up to $2,500 for interest on student loans, (2) allow tax-free and penalty-free withdrawals from individual retirement accounts for higher education expenses, and (3) retroactively reestablish that employer-provided education benefits to employees, up to $5,250 per year, are excluded from income for tax purposes. These proposals, if adopted, would provide substantial tax benefits to students, families, and higher education institutions.

• The upcoming federal debate over flat-tax and consumption-tax proposals may have profound implications for higher education.

Steve Forbes made adoption of a flat tax the key component of his surprising bid for the Republican nomination for president. A congressionally mandated commission headed by Jack Kemp also has called for major changes in the federal tax structure, including adoption of a flat tax structure and major modifications in other provisions of the tax code. Several key members of Congress from both parties have proposed a fundamental restructuring of the federal tax code that would abolish the income tax and replace it with a consumption-based approach that taxes income only when consumed and that rewards savings and investment.

Both the House Ways and Means Committee and Senate Finance Committees will hold hearings and broadly consider a series of alternatives to the current system in 1996, although legislative action is not expected until the next Congress convenes in 1997. The presidential election could play a crucial role in the path of this debate.

Consumption-based approaches may take several forms—a flat or single-rate tax on consumed income, a value-added tax, a national sales tax, or a hybrid of such taxes. Notwithstanding policy debates about savings rates, equity, simplicity, or revenue generation that inevitably result from comparisons with the current income-tax system, it is clear that many of these tax changes if adopted would dramatically change the way higher education is financed and how institutions provide education services.

• The tax-exempt status of colleges and universities will continue to be at issue in the courts and in the Congress.

In 1995, a Pennsylvania appeals court narrowly overturned a lower court ruling that Washington and Jefferson College, an independent liberal arts college, did not meet the test of a "purely public charity" under state law and that its tax-exempt status could therefore be challenged by local school districts and municipalities. The case, which involves issues of whether students receiving need-based financial aid are the proper objects of "charity" and whether the award of merit-based aid negates a "charitable" purpose, will next be heard by the Pennsylvania Supreme Court. This and related rulings obviously have substantial implications for the traditional exemption of colleges from local property taxes. If the lower court ruling ultimately carries the day, we can expect to see a rash of other localities seek to have colleges pay taxes on their properties.

In the interim, look for more battles over in-lieu-of-tax payments in many communities. The District of Columbia, Philadelphia, and other financially strapped municipalities have threatened local colleges with challenges to their tax-exempt status if they refuse to make payments or other "voluntary" arrangements. Additional pressures to generate revenues from college properties and services will result when local government budgets are stretched thin by revenue shortfalls and service demands.

The tax-exempt status of nonprofit institutions, including colleges and universities, also is at issue in the ongoing congressional debates over the Istook amendment. Congressman Earnest Istook (R-Okla.) has spearheaded efforts in the 104th Congress to prevent nonprofit institutions that receive federal funds of any kind from lobbying the Congress on a wide range of issues. The nonprofit community prevailed, barely, in the first session of the 104th Congress in blocking this legislation. But Istook probably will raise the issue again, this time probably in the form of proposals to limit lobbying by federal grantees below levels now permitted in the tax code and to require additional disclosure and recordkeeping by nonprofits.

For more information on this issue:

Description and Analysis of Proposals to Replace the Federal Income Tax, U.S. Congress, Joint Committee on Taxation, June 5, 1995.

"Tax Legislation and Higher Education: The Activist Approach of the 104th Congress," by Sheldon Elliot Steinbach, American Council on Education, November 1995.

"A Taxing Situation," by A. Lee Fritschler and Brian C. Mitchell in *Trusteeship*, September/October 1995.

6. Economic Development

Issue at a Glance

Several states will discuss higher education's role in stimulating economic development. The federal debate over workforce preparation may shift to the states, if block grants for job training take hold.

• Business and higher education leaders are forming alliances in many states to lobby for more funding for higher education to promote greater economic development.

• The continuing debate over reform and consolidation of the federal job-training programs raises important questions relating to national economic development.

Higher education has long been recognized as a critical component in strategies designed to promote economic development. Over the years, a number of public and private institutions, singularly and collectively, have commissioned studies showing their importance to the national and regional economies. But arguments about the economic value of higher education recently have intensified in many states as advocates for more funding for higher education find themselves competing against demands for more health care, welfare, elementary and secondary education, and prison construction. As a result, the debate over the future funding for higher education at the federal, state, and local level increasingly will be tied to arguments over the linkage between higher education and economic development. At the federal level, the debate this year will extend to the question of job training and its importance in promoting economic development.

• Business and higher education leaders are forming alliances in many states to lobby for more funding for higher education to promote greater economic development.

Increasingly business and higher education leaders realize that their futures are linked. Business cannot thrive if the labor force is not prepared to do the work, and higher education cannot count on continued public support if business is dissatisfied with the quality of college graduates. One manifestation of this heightened realization can be seen in recent efforts in Virginia where a consortium of business and higher education leaders has been lobbying for greater funding of higher education to promote enhanced economic development within the state.

This group was formed in part because of Governor George Allen's proposals to slash funding for higher education as part of an overall strategy to reduce the size of government. One measure of the consortium's effectiveness is that Allen this year proposed increases in higher education funding, albeit tied to a tuition freeze at public institutions in the state. Both measures have passed. Look for more states to follow the example in Virginia, although perhaps not as visibly, and form similar alliances between business and higher education.

• The continuing debate over reform and consolidation of the federal job-training programs raises important questions relating to national economic development.

A top priority of the Clinton administration has been to reform the myriad job-training programs now on the federal books into a more coherent federal effort. This thrust is consistent with the national consensus on the importance of having a work force that can compete in the global marketplace. It also is consistent with the perception that while the United States continues to have the finest higher education system in the world, what it offers in postsecondary vocational

education lags behind that of many other countries in training its current and future work force.

In an attempt to rectify this weakness, the Clinton administration in its first two years developed a comprehensive proposal to consolidate existing job-training programs with an eye toward making American vocational training into a world-class operation. This effort failed in the 103rd Congress as advocates for existing programs resisted the restructuring.

In the first session of the Republican 104th Congress, proposals to overhaul the job-training programs passed both the House and the Senate. Both bills would consolidate or terminate more than 100 existing programs under a variety of authorities, including adult education, school-to-work, vocational education, and the Jobs Training Partnership Act (JTPA). Under both the House and Senate bills, overall funding would be about 20 percent less than under existing programs.

If such a plan emerges from conference, which is likely, it will have a strong state focus, given the inclination of the 104th Congress to devolve programs to the states and the fact that all of the Clinton Administration's plans for job-training reform have emphasized the importance of the states in meeting emerging labor-force needs. Both of the passed bills would disburse job-training funds through block grants to the states, based on the notion that governors should have greater flexibility and more accountability for how these funds are spent. It is likely that a number of higher education programs—including the Jacob Javits and Patricia Roberts Harris graduate fellowship programs—will be affected by this legislation.

It is also likely that the issue of job training and work force development will be prominent in the presidential campaign. President Clinton is a keen student of this issue, and several members of his cabinet, most notably Labor Secretary Robert Reich, are aggressively putting forth proposals for such additional reforms as employer and employee tax credits for education and training. Lamar Alexander highlighted this issue in his campaign for the Republican presidential nomination, and the Republican platform and nominee surely will have something to say about job security and the need for the United States to be able to compete in the global economy. If anything, the debate over economic development and higher education's role in promoting it is likely to intensify during the 1996 presidential campaign.

For more information on this issue:

"How T. Rex is Turning Into a Toothless Dragon," by John T. "Til" Hazel, Jr. in *Trusteeship*, September/October 1995.

7. Federal Support for University Research

Issue at a Glance

Congress will debate the level and composition of federal research funding and the reform of indirect-cost recovery policies.

• The pending departure from Congress of key advocates will exacerbate stresses in federal research funding in 1996 and beyond.

• Federal support for university research in scientific and other fields will continue to decline in real terms, although certain fields, particularly biomedical research, may experience growth.

• Indirect-cost recovery rules will continue to be a focus of congressional and administration attention as federal research resources stagnate.

Strong bipartisan support has been a hallmark of the partnership between the federal government and universities for the past half century as Democrats and Republicans alike have recognized the importance of research to the continued growth of the national economy and the general welfare of our society. This bipartisan support continued through the first session of the 104th Congress in 1995. But continuing budgetary pressures and criticisms of certain aspects of the federal research process have undermined some of this support. Complicating this picture is that some of the strongest advocates of federal university research will leave Congress at the end of this year.

• The pending departure from Congress of key advocates will exacerbate stresses in federal research funding in 1996 and beyond.

The two key advocates for university-based science research—Mark Hatfield, chairman of the Senate Appropriations Committee, and Bob Walker, chairman of the House Science Committee—have announced they will leave Congress after the current session. Their departure, coupled with an unprecedented number of retirements of other senior congressional leaders and the substantial number of new members elected since 1992, may leave a gap in what has been a long-standing pattern of congressional support for basic research. This will present a challenge to the higher education community to build a new cadre of research advocates in Congress.

• Federal support for university research in most scientific and other fields will continue to decline in real terms, although certain fields, particularly biomedical research, may experience growth.

The now-bipartisan drive toward a balanced federal budget by 2002 will continue to create pressure to reduce nondefense discretionary spending, including funding for programs of government-sponsored, university-based research. Based on the trendlines of the past few years, it is likely that real, and perhaps nominal, federal support for university-based research will continue to decline. In general, the debate over levels of spending on basic research has been framed more in terms of budgetary stringency and fiscal policy than in terms of the quality and purposes of the university research enterprise. It also is important to note that, overall, the kinds of basic research conducted at universities have fared relatively well in the budget battles of recent years, compared with applied research and development activities.

Although the final levels of funding for fiscal 1996 for several agencies that support university

research have not been determined, the broad outlines for research funding are apparent. These outlines will likely be mirrored in the fiscal 1997 budget debate that will occur this year:

First, biomedical research funded by the National Institutes of Health (NIH), which typically provides about half of federal research support to colleges and universities, continues to be looked upon with great favor by Congress. Under the full-year continuing resolution that funds "essential" federal programs, NIH research will grow by about 6 percent relative to fiscal 1995.

Second, the research budgets of other agencies that support science and engineering at colleges and universities likely will be funded roughly at or slightly below fiscal 1995 levels. The budget for the National Science Foundation is expected to be funded at the same level as last year. NASA's basic research budget, also not final, is anticipated to be about 2.6 percent less. Overall, the programs of the Department of Energy that sponsor university research will be funded at 10 percent above fiscal 1995 levels, but there will be major fluctuations within individual research programs sponsored by the Energy Department

Third, nonscience research programs will be cut substantially. Although the National Endowment for the Humanities and the National Endowment for the Arts have been preserved, their funds are expected to be cut by 40 percent or more.

• Indirect cost recovery rules will continue to be a focus of congressional and administration attention as federal research resources stagnate.

Federal policies governing payment for the indirect costs of research—the costs of research facilities and administration, otherwise known as "overhead"—have been in flux for almost 30 years. These policies have garnered increased attention since 1991 when billing practices of several universities for indirect costs came under congressional and executive-branch scrutiny. As a result of these reviews, changes in indirect-cost practices and rules were announced by the Office of Management and Budget(OMB) in 1992, 1993, and again in 1995. OMB is expected, early in 1996, to promulgate new standards, or "benchmarks," that could further limit the level of reimbursement to universities for the federal share of the costs of utilities, facilities, and equipment used in the conduct of federally sponsored research.

Congress also has refocused on indirect-cost issues. The House Appropriations Committee has noted its interest in moving from a "cost based" to a "price based" system of payment for research overhead, and its Senate counterpart similarly encouraged "new and innovative ways to reimburse institutions for the legitimate costs of supporting university-based research." In addition, the House Science Committee requested, in its version of NSF-authorization legislation, that the White House identify the "best ways" to reduce indirect-cost reimbursements on a governmentwide basis.

For more information on this issue:

"AAAS Report XX: Research & Development FY 96," American Association for the Advancement of Science, 1995.

"AAAS R&D Budget and Policy Project: Latest Data on Congressional Appropriations for R&D in the FY 1996 Budget," American Association for the Advancement of Science, January 1996 (available on the World Wide Web at http://www.aaas.org/).

"Allocating Federal Funds for Science and Technology," National Academy of Sciences, 1995.

8. Distance Learning and Technology

Issue at a Glance

Many states and institutions are intensifying their examination of distance learning as a way to cut costs and improve productivity. The federal telecommunications bill could have important effects on the use of technology on campus.

• Increased use of interstate compacts and public-private partnerships may reduce the costs of educational technology for many institutions.

• The guidelines for universal service outlined in the Telecommunications Act of 1996 may assist distance-learning efforts by ensuring more equitable access.

• Controversial ethical and regulatory issues related to the Internet may lead to court actions and legislation.

Increasingly, discussions about cutting costs and improving access in higher education are turning to technology and distance learning as two chief strategies for achieving these goals. Greater dependence on these strategies could lead to radical changes in the delivery of educational services at many institutions and to increased competition between institutions and for-profit markets. Expectations about the efficacy of distance learning and technology, however, should be tempered by considerations of unforeseen costs and inevitable changes in the higher education environment. Strategic planning and greater cooperation among states and institutions will be beneficial in reaching these goals. The success of these strategies also will depend heavily on the realization that some institutions will benefit more from these applications than others.

• Increased use of interstate compacts and public-private partnerships may reduce the costs of educational technology for many institutions.

States projecting large enrollment increases and an inability to afford new campuses are leading the way in distance learning. Several states have entered into contracts with telecommunications carriers to provide distance-learning networks through the installation of digital uplinks for digital compression and satellite downlinks. As more carriers are allowed into this market, the additional competition most likely will force prices down.

New and higher levels of interstate cooperation among member governments, higher education coordinating agencies, and public and private institutions will be needed to implement such programs as the "Virtual University," a recent proposal by the Western Governors' Association. A virtual university currently may be more attractive to older, vocational, and career-oriented students as a means of attaining credentials and certificates, but as technology becomes more affordable, interstate consortia will be able to offer a broader range of courses through technology that appeal to wider audiences.

• The guidelines for universal service outlined in the Telecommunications Act of 1996 may assist distance-learning efforts by ensuring more equitable access.

The Telecommunications Act of 1996 was signed into law in February after protracted debate. The new law provides for a "procompetitive, deregulatory national policy framework designed to accelerate rapidly private-sector deployment of advanced telecommunications and information

technologies and services to all Americans by opening all telecommunications markets to competition." The intention is to create a more competitive market for local telephone companies, long-distance carriers, cable-television operators, and electric utilities.

The act states that quality services should be available at "just, reasonable, and affordable rates." The intent is for consumers in all regions, including low-income, rural, and high-cost areas, to have reasonably comparable services and costs. All providers of telecommunications services are to make an "equitable and nondiscriminatory contribution" to the preservation and advancement of universal service. The legislation specifically provides preferential rates to elementary and secondary schools, libraries, and rural health-care facilities. Questions remain about whether this provision will be applied to higher education as well.

The Federal-State Joint Board instituted by the act, along with the Federal Communications Commission, will establish the definition of services that are covered by the federal universal-service provisions. Factors will include the extent to which telecommunications services (1) are essential to education, public health, or public safety; (2) have—through market choices by customers—been subscribed to by a majority of residents; (3) are being deployed in public telecommunications networks; and (4) are consistent with the public interest, convenience, and necessity. States will continue to have the primary role in implementing universal service for intrastate services, so long as the level of universal service provided by each state meets the minimum definition of universal service.

The Federal Communications Commission and state regulators will have to set the groundrules for deregulation, because the workings of the interstate delivery system will pose significant challenges not only to institutions but to state governments and state licensing agencies.

• Controversial ethical and regulatory issues related to the Internet may lead to court actions and legislation.

Questions of libel, slander, and copyright infringement on the Internet have been raised in the media after a number of incidents on various campuses. The American Association of State Colleges and Universities has recommended that schools establish an ethics code before giving students e-mail addresses and Internet access. Campus officials have started implementing this but generally are unwilling to take punitive actions that may limit free speech.

Title V of the Telecommunications Act bans the providing of pornography over computer networks, and sets penalties for those convicted of distributing "indecent" sexual material to minors. Subsection 5 states, "It is the policy of the United States to ensure vigorous enforcement of federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer." Pornography will be delineated by "community standards." Civil-rights organizations have said they will challenge such provisions on First Amendment grounds.

For more information on this issue:

"Congress Votes to Reshape Communications Industry, Ending a 4-Year Struggle," by Edmund L. Andrews in *The New York Times*, February 2, 1996.

"The Near and Far of Distance Learning," by James Martin and James E. Samels in *Trusteeship*, March/April 1995.

"Uncle Sam as Internet Nanny," by Fred W. Weingarten in the *Chronicle of Higher Education*, March 1, 1996.

9. Campus Climate

Issue at a Glance

The deterioration in the campus climate in terms of race and gender relations, the incidence of crime, and the growing shrillness of debate could have public-policy implications in the courts and through legislation.

• Sexual-harassment policies or speech codes may be subject to court challenges that examine whether they meet due-process and academic-freedom tests.

• Driven by a demand to focus on the outcome of students' education, some schools may be forced to examine whether they offer the proper balance between liberal arts and vocational courses.

• Graduate teaching assistants at some institutions will ask to be recognized as employees, rather than as students.

Campuses always have been social petri dishes, and the 1990s are no exception. In 1996, campuses can expect to continue to see contention over sexual-harassment cases, codes that seek to define permissible speech, the self-segregation of the student body, and the "rights" of various groups. Many of the cases will be politically or racially combustible, and will occur on random campuses with little or no notice.

• Sexual-harassment policies or speech codes may be subject to court challenges that examine whether they meet due-process and academic-freedom tests.

Colleges and universities that seek to handle sexual-harassment, free-speech, or disciplinary cases internally may find their board-approved campus judicial or disciplinary procedures do not satisfy the needs of "complainants" or "defendants." Christy Brzonkala, Virginia Tech student who said she was raped and agreed to participate in a confidential university disciplinary case, recently became the first to sue an institution under the 1994 Violence Against Women Act. This law recognizes crimes against women as a deprivation of civil rights and gives individuals a right to file federal suits. Brzonkala seeks $8.3 million from the university and the two alleged assailants in what is likely to be the first test of the confidential disciplinary systems institutions use to deal with offenses from petty theft to rape.

Many college professors also have had to alter their teaching styles in light of the sexual-harassment risk. Professors in New Hampshire, California, and elsewhere have found themselves before campus tribunals or in court defending their teaching methods. Such cases have led many campuses to adopt guidelines, which themselves have led to contention among the professoriate.

The American Association of University Professors recently updated a policy statement to balance academic freedom and respect for a nonthreatening learning environment. It defines sexual harassment, in part, as speech or conduct that is "reasonably regarded as offensive and substantially impairs the academic or work opportunity of student, colleagues, or coworkers. If it takes place in the teaching context, it also must be persistent, pervasive, and not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material."

Additionally, the federal Office for Civil Rights may issue guidelines on sexual harassment this year.

• Driven by a demand to focus on the outcome of students' education, some schools may be forced to examine whether they offer the proper balance between liberal arts and vocational courses.

Depending on whom you speak with, political correctness in colleges and universities either is rampant or an illusion. Either it damages American campuses by allowing ideologues to be classroom advocates, freshman orientations to alter social attitudes, and multicultural awareness courses to infiltrate curricula at the expense of Western civilization, or it is part of a nationally orchestrated effort to set up a straw man and knock it down. Few suggest, however, that students are choosing one college over another on the basis of the presence or absence of "political correctness."

Arguments over political correctness aside, several institutions have seen pitched battles over the content of specific courses that detractors deem too esoteric and outside the established canon or are designed to inculcate a specific social, political, or sexual viewpoint. Such situations enter the public-policy debate when they become enmeshed in public or legislative demands that institutions offer more rigorously designed core curricula with fewer elective courses as well as courses of study that prepare students more directly for the world of work.

• Graduate teaching assistants at some institutions will ask to be recognized as employees, rather than as students.

A recent strike by graduate teaching assistants at Yale University may bring the issue of whether these individuals are foremost students or faculty. In an effort to force Yale to negotiate wages and benefits with their union, graduate students withheld grades for the course they taught in the fall semester. The university held firm, and the strike failed. Similar labor strife among regular faculty over salaries has occurred at Rutgers University, and the universities of New Hampshire, Rhode Island, and Cincinnati.

Universities invariably have prevailed in their arguments that although graduate students perform teaching duties, this is a form of apprenticeship not subject to labor law. But as institutions continue to seek ways to trim costs—and using graduate teaching assistants instead of tenured faculty is one way to do so—such situations are sure to arise at other campuses. Graduate students have formed unions at about a dozen public universities and are organizing at others; the strike at Yale was the first at a private institution.

For more information on this issue:

"Academic Politics," *The CQ Researcher*, February 16, 1996. ($8 to nonsubscribers from Congressional Quarterly Customer Service, 202/887-8621.)

"Improving the Climate for Diversity in Higher Education," The Center for Education and Human Development Policy at Vanderbilt University's Institute for Public Policy Studies. (Call 615/322-8000 for information.)

"Graduate Teaching Assistants Press Their Call for Equity in Academia," by Rene Sanchez in the *Washington Post*, February 4, 1996.

10. Regulation and Accountability

Issue at a Glance

Regulatory relief will continue to be prominent as the federal government and the states seek the appropriate balance between accountability and regulatory reform.

• The Clinton administration may push forward this year with a performance-based regulatory-reform plan that provides regulatory relief for some institutions while targeting poor-performing institutions for more intensive review.

• Several states are looking at incentive funding as a way to make their public institutions more accountable for public funds.

• The debate over the future of accreditation now focuses on a specific proposal to establish a Council on Higher Education Accreditation with strong presidential influence.

The protest that surrounded the proposed implementation of the State Postsecondary Review Entities (SPREs) led Congress not to fund them in 1995. But the problems that led to the creation of SPREs still remain—namely, that too little quality control is exercised in federal student-aid programsm and institutions are not meeting minimal standards. At the same time, many institutions with good track records are being overwhelmed with regulatory requirements for information and compliance. In addition, states continue to wrestle with the issue of accountability, looking for ways to link funding of public higher education with measures of performance while not intruding on the autonomy of institutions. Improving accountability in higher education also relates to the future of accreditation, which remains subject to extensive criticism and review.

• The Clinton Administration may push forward this year with a performance-based regulatory-reform plan that provides regulatory relief for some institutions while targeting poor-performing institutions for more intensive review.

Several recent studies have documented the growing level of regulations with which colleges and universities must comply, including many that fall outside the purview of the U.S. Department of Education. Despite frequent calls for less regulation, the level of federal regulation in recent years may have become even more excessive. Many college officials are exasperated by the kinds of information they are being asked to provide to comply with federal regulations. Look for a storm of protest if new tuition-refund policy regulations require institutions to provide attendance records of their students. The basic problem seems to be that in an effort to provide adequate quality control over institutions that are not doing a good job of administering the federal aid programs, regulatory requirements are applied to many institutions that, by any objective standard, are doing a good job of administering the programs.

To address these concerns, the Clinton administration has an effort underway to develop a performance-based regulatory structure. Under this plan, institutions that run the federal aid programs well would be relieved of certain reporting and regulatory requirements. The same plan calls for more intense enforcement of existing rules for institutions judged to be deficient in managing the federal aid programs. A critical issue to follow as this discussion continues is what criteria will be used to determine which institutions are performing well and which are not.

• Several states are looking at incentive funding as a way to make their public institutions more accountable for public funds.

The pressures for greater accountability are intensifying at the state level as legislators and other policy makers seek to find ways to make public institutions more accountable for the state funds they receive. In this effort, a number of states are rediscovering incentive funding as a way to make institutions more responsive to state objectives. An idea born in the 1980s, incentive funding was closely tied to total-quality management processes. With notable exceptions, the majority of incentive-funding efforts in higher education during the 1980s used money that was above base-level funding. When the recession hit in 1990, most of these programs disappeared or became dormant as funding dried up.

In the 1990s, performance funding is assuming many of the roles that were associated with incentive funding in the 1980s. Performance funding entails states providing some portion of the funds allocated to institutions on the basis of their performance—measured in a variety of ways, including graduation and placement rates and improvement in test scores. Four states made significant strides in introducing base-level performance funding in 1995. The evolution of incentive funding into performance funding will continue in 1996. Look for more states to work with institutions to set performance goals that will determine a percentage of institutional base funding.

• The debate over the future of accreditation now focuses on a specific proposal to establish a Council on Higher Education Accreditation with strong presidential influence.

Last year saw the most intense debate over the future of accreditation in recent memory. This debate was stimulated by the controversy over SPREs and the collapse of the Council on Postsecondary Education (COPA), the body that previously was responsible for "recognizing" regional, national, and specialized accrediting bodies. The debate centered on a proposal by the National Policy Board on Higher Education Institutional Accreditation (NPB) to establish a new national board to oversee accreditation activities. This proposal was discussed at the national meetings of all of the major higher education associations and in other forums, and it received a mixed reception. The NPB proposal ultimately was rejected, as many college officials thought the new national board would have too much authority and be potentially intrusive, in contrast to the process that traditionally has been voluntary and nonintrusive. Meanwhile, an interim Commission on Recognition of Postsecondary Education (CORPA) was formed to meet the need of reorganizing appropriate, new specialized accrediting bodies until a new and permanent organization might be formed.

The failure of the NPB to gain consensus led to another group, composed almost exclusively of college presidents, that accepted the task of offering an alternative to the NPB proposal. This group has proposed to establish a Council on Higher Education Accreditation (CHEA) which, among its several functions, would be the recognition of accrediting agencies. This proposal is receiving the endorsement of most national and regional organizations, with ratification of college and university presidents to be sought in April 1996. The board of the proposed organization would consist of a majority of college and university presidents.

For more information on this issue:

"Scaling the Depths of Institutional Evaluation," by Gordon Haaland in *Trusteeship*, September/October 1995.

"Accountability of Colleges and Universities," by Patricia Albjerg Graham, Richard W. Lyman, and Martin Trow, published by Columbia University, October 1995

"Charting Higher Education Accountability," Education Commission of the States, June 1994.

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